

The Research Review is a publication of the Research Division of the Tennessee House of Representatives

Greg E. Adkins

Conservation & Environment
Transportation

Paige Edwards

Judiciary

Lawrence Hall, Jr.

State & Local Government

Cathy Higgins

Finance, Ways & Means

Chris McGrew

Commerce

Judy Narramore

Health & Human Resources

Jessica Peccolo

Education

Shannon Romain

Children & Family Affairs
Consumer & Employee Affairs

Ryan Swindell

Agriculture
Government Operations

Meagan Frazier

Staff Assistant

Denise Sims, Director

741-3025

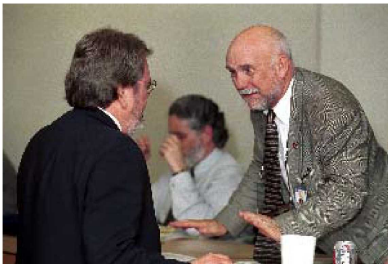
Session Edition VIII 2002

March 20, 2002

Published by the Research Division of the Tennessee House of Representatives

**THE FINANCE COMMITTEE'S BUDGET HEARINGS CONTINUE:
ECONOMIC & COMMUNITY DEVELOPMENT • TREASURER'S REPORT
LABOR & WORKFORCE DEVELOPMENT • TOURISM • PERSONNEL
FINANCIAL INSTITUTIONS • REVENUE • GENERAL SERVICES
(summaries follow committee reports)**

House Committee Activity: March 18 - 20, 2002



House Minority Leader Steve McDaniel confers with Agriculture Committee Chairman Ken Givens during a recent Finance Committee budget hearing. (Also shown is Representative Jere Hargrove.) The committee will hold budget hearings through early April.

Agriculture

Ryan Swindell

The **Agriculture Committee** met Tuesday with one bill to consider. **HB2882** by Rep. McMillan was amended and recommended to Finance, Ways and Means. This bill, which has commonly been referred to as the "puppy mill bill," would increase fees for licenses for a dog or cat dealer. It would authorize the stopping of vehicles to check for licensure compliance and

the confiscation of endangered animals. It would also use a portion of the animal friendly specialty license plate to defray costs associated with the licensure. Under current law, proceeds from the specialty license plate are distributed as grants to low-cost spay and neuter programs by the Commissioner of Health. This bill would allow the Commissioner of Agriculture to make the grants instead. If approved, the portion from the specialty license plate would be used for two years and then

the program would be self-sufficient by the fees collected. The amendments placed on the bill would set a maximum amount of \$80,000 per year for two years from the animal friendly license plate. The Department of Agriculture would have to sustain a grant program to spay and neuter clinics in 2003 and 2004 based on 2002 qualification requirements. Also, the Department would have to allocate any revenue in excess of \$130,000 to the animal population control endowment fund from the first fiscal year in which revenues are derived from fees collected. The Department must continue the allocation process until \$160,000 has been reimbursed to the endowment fund.

The **Marketing and Commodities Subcommittee** met with two bills on the calendar. **HB2502** by Kernell was recommended to full committee. As amended by the Government Operations Committee, this bill would direct the Commissioner of Agriculture, in consultation with the Tennessee Forestry Commission, to study cost recovery methodologies and submit findings to members of the House Agriculture Committee, the House Conservation and Environment Committee, the Senate Environment, Conservation, and Tourism Committee, and the Senate Commerce, Labor, and Agriculture Committee by January 15, 2003. **HB2352** by Chairman Givens was also recommended to full committee. This bill would require the General Assembly to expend fifty percent of the monies received from the tobacco settlement and put it into a new account in the state's general fund for rural economic assistance. It would empower the Tennessee Local Development Authority to issue bonds and make the proceeds available to assist agricultural development and educational financial aid.

The **Agriculture Resource and Industry Subcommittee** had two bills by Rep. Maddox to consider. **HB2782** would mandate that a juvenile who commits a second violation of a prohibited purchase or possession of tobacco have his or her driving privileges revoked until they comply with the penalty assessed to them by the court. **HB2876** would increase the cigarette tax from 6 ½ mills per cigarette to 21 ½ mills. Both bills were taken off notice.

Children & Family Affairs

Shannon Romain

The **Children and Family Affairs Committee** and its subcommittees met this week. In the full committee, **HB 2425** by Rep. Scroggs was referred to Finance, Ways and Means. The bill will shift approximately 2,700 new Title IV-D child support administrative appeals annually from

the Shelby County Juvenile Court to the Department of Human Services, resulting in a 70% increase in the state's existing caseload. The department will need 10 additional positions to handle the new cases. The transfer will save Shelby County over \$100,000, however, the state estimates a one-time cost of \$11,300 and \$125,700 in recurring expenditures. The state's costs will be matched by over \$244,000 in recurring federal funding.

Three bills were referred to Calendar and Rules. **HB 2883** by Rep. Patton restates that the purpose of the Department of Children's Services' permanency hearings and plan goals for children in state custody will include planned permanent living arrangements instead of permanent foster care and emancipation. **HB 2886** by Rep. Scroggs includes half and whole siblings in the definition of "related" for the purposes of adoption. As amended, **HB 2385** by Rep. Buck authorizes the general sessions court to impose sanctions on anyone who the court determines by clear and convincing evidence has filed a petition for an order of protection that is frivolous or for harassment. On such a finding, the petitioner may be ordered to pay the respondent's reasonable costs and attorney's fees for defending the petition.

The **Domestic Relations Subcommittee** held its last scheduled meeting on Tuesday and is now closed subject to the call of the chair. Rep. John DeBerry sponsored the two bills the committee reviewed. **HB 2358** was referred to the full committee. The bill clarifies and reorganizes the alimony and child support statutes making them easier to read. It does not make any substantive changes to the law.

HB 2469, an infant abandonment bill, failed on voice vote. Had it passed it would have significantly changed the legislation passed last year, by requiring, among other things, that a parent turning their newborn over to medical facility personnel give their name and social security number. In the event the parent refused to do so, the center was required to detain the parent and to call the police to assist in obtaining the information.

The **Family Justice Subcommittee** referred three bills to the full committee. **HB 2471** by Rep. John DeBerry requires that in the four-month period prior to a termination of parental rights hearing, a parent's failure to visit or support their child must be "with willful intent." **HB 2526** by Rep. McMillan establishes that the venue for all matters relating to orders of protection shall be in the county where the petitioner or respondent resides or the county where the domestic abuse occurred. **HB 2528**, also by Rep. McMillan, provides that petitioner for an order of protection is not required to pay any cost associated with service of order as well as other such costs.

Commerce

Chris McGrew

The **House Commerce Committee** met Tuesday with seven bills on the calendar. The committee moved **HB 3028** and **HB 2592** on to FW&M. **HB 3028** (Kisber) states that a telephone cooperative experiencing a tax savings shall implement a revenue distribution to its customers. **HB 2592** (West) would require trainers and managers of private protective service companies to have six hours of continuing education. The committee also moved **HB 3153** and **HB 2241** on to C & R.

The **Small Business Subcommittee** had two bills on the calendar, but both bills were rolled until next week. That will be the last meeting for Small Business.

The **Utilities & Banking Subcommittee** moved three of their five bills on to full committee. **HJR 659** (Kisber) would continue the study committee on electric utility industry deregulation until February 28, 2004. **HB 1464** (Maddox) would provide for temporary certificates, under certain conditions, to authorize receiving of charitable gift annuities until a regular certificate is available.

The **Industrial Impact Subcommittee** had ten bills on the calendar this week. The committee moved three bills on to full committee and the remaining bills were rolled until the last meeting next Tuesday. **HB 2894** (Kisber) would revise the HMO prompt payment requirements as they relate to TennCare. **HB 2983** (McKee) would require, in the future, the state to make full payment to health care providers who were not fully compensated by an insolvent health insurer, HMO, PPO, or any other similar entity under contract with the state, for care they provided to TennCare enrollees. The amount of increased state expenditures cannot be determined, but it is estimated to exceed \$1,000,000 in the event of such an occurrence.

Conservation & Environment

Greg E. Adkins

The full **Environment Committee** met on Wednesday, March 20, 2002 with the Senate for a joint committee meeting. The focus of the hearing was the Tennessee State Park Closings. The groups that spoke at the meeting to open the state parks included:

1. Mark Williams--Director of State Parks (TDEC)

2. Mack Prichard--Tennessee's State Naturalist
3. Kathleen Williams--Tennesseans for State Parks
4. Scott Davis--Nature Conservancy of Tennessee
5. Carle Reese, Steve Hamilton, Stephanie Ailey--Local Park Friend Groups
6. Penny Brooks--Sierra Club
7. Ron Castle--Volunteer from Friends of South Cumberland
8. Bill Bruce--Chair of TN Parks and Greenways Foundation

The **Environment Subcommittee** met on Tuesday, March 19, 2002 and rolled all of the bills on the calendar.

The **Parks & Tourism Subcommittee** met on Tuesday, March 19, 2002 and rolled all of the bills on the calendar.

Consumer & Employee Affairs

Shannon Romain

The **Consumer and Employee Affairs** full committee and the **Consumer Affairs Subcommittee** were both canceled this week, however, the **Employee Affairs Subcommittee** met at its regularly scheduled time. The committee referred the following bills to the full committee:

- **HB 2593** by Rep. West requires an annual report of employers without workers' compensation coverage to specify how long such employers were without coverage.
- **HB 2609** by Rep. West requires employers with over five years workers' compensation coverage for the same employment activities, and who obtain workers' compensation insurance in the voluntary market, to be evaluated on their claim history, including past losses and expenses. The risk factors of such employers would not be based on their industry classification as long as the employer's number and expense of claims is in the lowest 25% of all employers in that industry classification in this state.
- **HB 2511** by Rep. Briley would require employers covered by the workers' compensation law that maintain a drug-free workplace to keep an updated copy of laws and regulations related to drug-free workplace programs. Such employer would have to conspicuously post a sign stating the availability of such information to employees. The

employer would have to provide an opportunity to review such information to each employee upon hiring.

- **HB 2808** by Cole (Dyer) would define "mental injury" for purposes of workers' compensation law to mean a loss of mental faculties or mental and behavior disorders where the proximate cause is a compensable physical injury, or a sudden or unusual mental stimulus.

- **HB 2276** by Kisber requires the Advisory Council on Workers' Compensation to report to the special joint committee on workers' compensation concerning settlement standards, the loss costs system, and the assigned risk pool by January 15 of each year.

The following bills were taken off notice:

- **HB 2909** by Rinks requires applicants for staff leasing company licenses to obtain a corporate surety bond. Also, it orders the submission of quarterly workers' compensation premium and wage reports and establishes formula for premiums.

- **HB 2244** by Sharp reduces the time of advance notice that a female employee is required to give prior to maternity leave from 3 months to 60 days.

- **HB 2245** by Sharp reduces the time of advance notice that a female employee is required to give prior to maternity leave from 3 months to 90 days.

Education

Jessica Peccolo

The **House Education Committee** did not meet this week due to the death of Chairman Winningham's mother. All bills from this week's calendar are scheduled to be heard next week.

K-12 Subcommittee

Representatives from the School Food Association attended the K-12 Subcommittee this week and brought committee members cinnamon rolls as an example of the quality food they provide school children across the state. Association President James Griffith spoke to the

committee briefly about the importance of the school food programs. He told committee members that the meals served in schools are often the only good food children eat in a day and that teachers can not teach children who come to school hungry.

Scott Bouslog, intern for the House Education Committee, gave a brief presentation to the K-12 Subcommittee about **HB 2628** (Brown). The bill directs the TBI to set up a toll-free phone line for people to call and report threats of school violence. Upon doing research Mr. Bouslog learned that the TBI already has a toll-free line for this purpose and that they work closely with local law enforcement and the schools to ensure that any threats are investigated. Because a phone line for school violence is already in existence, Representative Brown took this bill off notice. Also taken off notice was **HB 2582** (DeBerry, J).

The following bills were rolled during this week's meeting: **HB 0681, HB 2515, HB 3085, HB 3083, HB 2381, HB 3159, and HB 2432.**

Higher Education Subcommittee

HB 2721 (Kernell) was the only bill on calendar this week in Higher Education. It resets the sunset on the Higher Education and Technical Institution Publications Committee for June 30, 2008. The bill also removes the requirement that the Commissioner of Education serve on the committee. The bill passed to full committee.

Next week will be the final meeting of the Higher Education Subcommittee this year.

Finance, Ways & Means

Cathy Higgins

House Finance, Ways and Means Committee Tuesday, March 19, 2002

The Full Committee had six bills on calendar this week. The following bills were referred to Calendar and Rules:

- **HB 2867** (Kisber) modifies the penalty that industrial development corporations must pay for filing reports late. This puts them more in line with other corporations who file late reports.

- **HB 2224** (Arriola) deletes the June 30, 2002, repeal date on the additional 1% hotel occupancy tax for metropolitan counties - Davidson County.
- **SJR 529** (Cole, Ralph) names a bridge in Carter County to honor Master Sergeant Jefferson Donald Davis. Cost of signs paid for by the local government.

The remaining bills were rolled to future calendars.

Budget Subcommittee

Wednesday, March 20, 2002

Budget Sub had 25 bills on calendar this week. Several bills were rolled to future calendars. The following bills were recommended and sent to the full committee.

- **HB 2530** (McMillan) from Judiciary imposes an additional fine against individuals who are convicted of an assault relative to domestic violence.
- **HB 2542** (Patton) from Judiciary increases the fee payable upon a DUI conviction.
- **HJR 693** (Sands) from Judiciary, proposes an amendment to the Constitution to require the General Assembly to prescribe the maximum fine that, absent waiver, may be assessed without a jury. The 101st General Assembly considered and adopted SJR 629, which was the same topic. This resolution must pass with a two-thirds vote in each House. The resolution would require a vote at the 2002 regular November election.
- **HB 2907** (Scroggs) from Children and Family Affairs as amended directs the Department of Children's Services to provide a monthly notice to certain custodial parents or caretakers of children who receive child support payments.

Government Operations

Ryan Swindell

This week in the **Government Operations Committee** there were seventeen bills to consider, with twelve being reported out. Having been rolled from the previous week's calendar, **HB3002** by Rep. Scroggs was also rolled for two more weeks. This bill would impose an additional annual

assessment on insurance companies and HMO's for certain costs related to uninsurables in the TennCare program. It would also raise taxes on tobacco and alcoholic beverages and earmark the revenue to TennCare. **HB2450** by Rep. Shepard was rolled for one week. It enacts the "Controlled Substance Monitoring Act of 2002," which would create a controlled substance database advisory committee.

HB3100 by Rep. McCord, which would enact the "Tennessee Off-Highway Motor Vehicle Act," was rolled for two weeks. It would require every owner of an off-highway motor vehicle to annually register the vehicle with the executive director of the Tennessee Wildlife Resource Agency. **HB3148** also by Rep. McCord was rolled for one week. This bill would enact the "Tennessee Water Resources Information Act." **HB2813** by Rep. Todd was rolled for two weeks. It would require any amendment or repeal of rule, regulation, bylaw, policy, or procedure of the Tennessee Victims Coalition be sent to and received by the State Treasurer before it becomes effective.

The remainder of the bills was reported out and are listed below along with the action taken by the committee:



Members of Gov't Operations

HB 2939 by Montgomery – Creates a separate license for hair wrapping stylists and specifies required training – *Reviewed and Referred to Health & Human Resources* with a recommendation against passage.

HB 2889 by Lewis – Enacts the "Tennessee Insurance Producer Licensing Act of 2002" – *Reviewed and Referred to Commerce*.

HB 2317 by Cooper B. – Requires, by rule promulgated by the state board of education, vision screening by an ophthalmologist or optometrist for children entering public school, public preschool, or a head start program – *Reviewed and Referred to Education*.

HB 2949 by Rinks – Deletes the attorney position from the Board of Accountancy; deletes term of office of executive director of the Board; authorizes the Board to make expenditures that are provided in the approved budget of the Board – *Reviewed and Referred to Commerce* with a report.

HB 2709 by Kernell – Extends the State Family Support Council for six years – **Calendar & Rules**.

HB 2718 by Kernell – Extends the Military Affairs Commission for four years – **Calendar & Rules**.

HB 2719 by Kernell – Removes Jerry F. Agee Tennessee Law Enforcement Training Academy from sunset provisions – **Calendar & Rules**.

HB 2724 by Kernell – Extends the Institute for Labor-Management Studies for four years – **Calendar & Rules**.

HB 2726 by Kernell – Extends the Investment Advisory Council for six years – **Calendar & Rules**.

HB 2747 by Kernell – Deletes obsolete references to the Tennessee Tollway Authority – **Calendar & Rules**.

HB 2759 by Kernell – Removes Community Resource Development Committee from sunset provisions – **Calendar & Rules**.

HB 2763 by Kernell – Extends the Advisory Committee on Women's Health for two years – **Calendar & Rules**.

Health & Human Resources

Judy Narramore

The **Health & Human Resources Committee** met at noon on Tuesday with seven pieces of legislation on the calendar. Additionally, Commissioner Elisabeth Rukeyser, Department of Mental Health & Developmental Disabilities, presented a departmental update.

HB 2064 by Rep. Maddox as amended was referred to C&R. As amended, the bill would allow home care organizations providing "professional support services" under contract with the Department of Mental Health and Developmental Disabilities to be licensed by the Department of Health and would exempt them from the CON process. **HB 2272** by Rep. Bowers as amended, which would allow an application for a CON for a mobile MRI system to be approved to serve up to three sites, was referred to C&R. **HB 2372** by Rep. Hood, which would

allow for-profit hospitals to hold off-site health screenings, was referred to C&R. **HB 2479** by Rep. Patton, which would allow the Department of Health to suspend or revoke licenses of health care professions who fail to repay student loans or meet loan-related service requirements, was discussed and rolled one week with an amendment pending. The amendment would require notice to the licensee and a 45-day period in which to comply with the terms of the loan repayment. **HJR 685** by Rep. Garrett, which would designate "Emergency Medical Services Week," was referred to C&R. The remaining two bills on calendar, **HB 2911** by Rep. Overbey and **HB 3187** by Rep. Ferguson, were rolled at the respective sponsor's request.

Chairman Armstrong appointed the ad hoc daycare committee. Members include Rep. J. DeBerry (Chair), Reps. Arriola, Black, Caldwell, L. DeBerry, Patton, and Pruitt. The ad hoc committee will meet April 1, 2002, at 1:30 PM in HHR 16 to hear **HB 2318** (Rep. Cooper), **HB 2533** (Rep. Black), and **HB 2242** (Rep. Buck).

The **Human Services & Mental Health Subcommittee** met Tuesday afternoon with seven bills on notice. Chairman Ferguson announced that the subcommittee would close March 26, 2002. Two bills were referred to full committee. **HB 2280** by Rep. Kiser as amended would make changes to the way the Department of Human Services pays for mobile dental services. **HB 2376** by Rep. Hood would exempt certain counties from requirements for transporting mentally or emotionally disturbed persons to treatment facilities. **HB 3134** by Rep. Stanley, which would make various changes to the MH&DD provisions of current law, was rolled one week for members to review the amendment offered by the sponsor. **HB 2242** by Rep. Buck was moved to the ad hoc daycare committee. **HB 1463** by Rep. Maddox and **HB 2604** by Rep. West were taken off notice. Rep. Shepard rolled **HB 3043** to the last calendar.

The **Health Access Subcommittee** met Wednesday morning with seven bills on the calendar. Chairman Arriola announced that the subcommittee would close March 27, 2002. Three bills were referred to full committee. **HB 2624** by Rep. Arriola would establish a pilot project between the Department of Health and the Tennessee Edenizing Foundation to provide home and community based services to lower income, elderly citizens in order to avoid nursing home care. **HB 2433** by Rep. Whitson would increase certain traffic offense fines earmarked and paid into the traumatic brain injury fund. **HB 2835** by Rep. Armstrong would prohibit discrimination by MCOs against podiatrists that are practicing within the scope of their license. **HB 2566** by Rep. Dunn concerning ambulatory surgical treatment centers was discussed at length and then rolled for further review. Rep. S. Jones took **HB 2833** off notice. The

remaining bills on calendar, HB 1712 by Rep. Buttry and HB 2507 by Rep. Briley, were rolled.

The **Health Subcommittee** had 10 bills on its calendar Wednesday morning. Chairlady Pruitt announced that the subcommittee would close April 3, 2002. Rep. Arriola briefly discussed and rolled **HB 0628** which addresses comprehensive nursing home reform. **HB 2105** by Rep. Black as amended, which would allow trained school personnel to administer glucagon to students in emergency situations, was referred to full committee. **HB 2273** by Rep. Cooper concerning licensure of surgical technologists was discussed and rolled one week for consideration of an amendment offered today by the sponsor. **HB 2412** by Rep. Arriola as amended was referred to full committee. As amended, the bill would implement several nursing home reform measures, including appointing special monitors when facilities are cited for certain deficiencies, creating six new nursing home monitor positions, withholding and/or limiting licensure renewal of facilities cited for patient abuse, and increasing the number of hours of direct care to patients. **HB 2841** by Rep. Odom as amended, which would clarify that existing provisions related to the practice of reflexology are not applicable to licensed massage therapists, was referred to full committee. **HB 2981** by Rep. Odom, which would allow chiropractors to order laboratory tests, was referred to full committee on a roll call vote of 6-4-1. Two scope of practice bills were rolled one week by Rep. Odom: **HB 2429** (advance practice nurses) and **HB 2980** (chiropractors). The remaining bills on calendar, **HB 2501** by Rep. Kernell and **HB 3203** by Rep. McMillan, were rolled.

Judiciary

Paige Edwards

Civil Procedure & Practice Subcommittee

On Tuesday, the Civil Procedure & Practice Subcommittee met to consider 30 bills. **HB 2194** by Representative Bunch, **HB 2498** by Representative Bunch, and **HB 2699** by Representative Scroggs were rolled for two weeks. **HB 1636** by Representative Sargent, **HB 2184** by Representative Kernell, **HB 1001** by Representative Bowers, **HB 388** by Representative White, **HB 2154** by Representative Buck, **HB 2332** by Representative Buck, **HB 102** by Representative Odom, **HB 2570** by Representative Buck, **HB 3027** by Representative Kisher, **HB 2198** by Representative Bunch, **HB 2923** by

Representative J. DeBerry, **HB 2959** by Representative Rinks, **HB 2185** by Representative Overbey, and **HB 2334** by Representative Wood was rolled for one week. **HB 1898** by Representative Maddox was taken off notice. Representative Scroggs requested that **HB 2214** be reassigned to the **Criminal Procedure & Practice Subcommittee**.

The following 10 bills were sent to the full committee:

- **HB 1210** by Representative Clem, as amended, requires the private records of any utility to be confidential, except when the consumer expressly authorizes the release of the information. The provisions of this bill would not limit access to records by law enforcement agencies, courts, or other governmental agencies performing official duties.
- **HB 2321** by Representative Bone adds nursery stock to the definition of "farm" and "farm operation" under the Tennessee Right to Farm Act.
- **HB 2941** by Representative Odom, as amended, authorizes optometrists and podiatrists to form and own shares in the same professional corporation or limited liability company. Similar legislation has been adopted in 15 states.
- **HB 2929** by Representative Lewis adds that notice of a foreclosure sale must be shown by posting notice at the courthouse and on the Internet.
- **HB 3199** by Representative Towns authorizes the county court clerk's designee to attend meetings that are held by the county public records commission.
- **HB 2250** by Representative McDaniel amends the Tennessee Petroleum Underground Storage Tank Act concerning those individuals who maintain financial responsibility for the operation of petroleum underground storage tanks. Also, this bill, as amended, allows property owners who are named in third party damage lawsuits to receive compensation from the Tennessee Petroleum Underground Storage Tank Fund.
- **HB 3111** by Representative Fowlkes enacts the "Tennessee Uniform Prudent Investor Act of 2002." This act, which was written by the Uniform Law Commission, has been adopted in 36 states. Also, this bill clarifies some provisions in the present law relating to trusts.
- **HB 2580** by Representative Fowlkes makes several changes to the law relating to wills, probate, and estates. Specifically, this bill would clarify and change the present law relative to trusts, estate administration, and powers of appointment.
- **HB 710** by Representative Sands, as amended, establishes methods for collecting court costs and fees associated with inmate litigation.

- **HB 2989** by Representative Scroggs expands the offense of custodial interference to include the removal or detention of a child born out of wedlock from the rightful custody of the mother.

NOTE: The last date that this committee will meet is April 2nd. The cut-off for putting any bills on notice will be March 27th at 3:00.

DUI Subcommittee

The DUI Subcommittee held its final meeting on Tuesday to consider three bills. HB 3032 by Representative Maddox was taken off notice.

HB 2669 by Representative U. Jones (Shelby) was sent to the full committee. This bill clarifies that underage driving while impaired offenses that are committed by individuals, who are 18 or over but under the age of 21, would qualify for pre-trial diversion. Also, this bill clarifies that a judge may suspend the fine or punishment for underage driving while impaired offenses committed by a person age 16 or over but under 18 years of age.

Also, **HB 3189** by Representative Hargrove was sent to the full committee. This bill would require the court to order a drug and alcohol assessment on a person convicted of a subsequent DUI that is within five years of a prior DUI conviction. The person would pay for the assessment and treatment unless the court deems the person indigent. If a person were indigent, such costs would be paid from the department of health's alcohol and drug addiction treatment fund.

Judicial Administration Subcommittee

On Wednesday, the Judicial Administration Subcommittee held its final meeting to consider seven bills. HB 1883 by Representative Towns was taken off notice. HB 2531 by Representative Walker was rolled to 2003.

The following five bills were sent to the full committee:

- **HB 2389** by Representative Bunch, as amended, authorizes POST-certified police officers in Bradley County to execute distress warrants that are issued for business taxes levied by a municipality.
- **HB 2888** by Representative Scroggs, as amended, grants subpoena power to the Program Integrity Unit of the Office of Health Services as part of a TennCare enrollee investigation.

- **HB 2613** by Representative West requires any peace officer from another jurisdiction providing security or other duties in Davidson County to notify the Davidson County chief law enforcement officer of this work assignment. Such peace officer would be required to wear markings, insignia, or letterings to designate the peace officer's primary county of jurisdiction.
- **HB 3132** by Representative White, as amended, relates to court information and reporting. This bill clarifies how cases should be counted in compiling data that is reported by the clerks of the courts to the Administrative Office of the Courts. Also, the \$2.00 data entry fee collected by the clerks of the courts would be allocated to update the process for reporting the data.
- **HB 1201** by Representative Buck, as amended, clarifies that only one tax will be imposed per bail bond for conduct that arises from the same criminal episode.

Criminal Procedure & Practice Subcommittee

On Wednesday, the Criminal Procedure & Practice Subcommittee met to consider 27 bills. HB 405 by Representative Bunch, HB 2786 by Representative Armstrong, HB 3001 by Representative Buck, HB 3033 by Representative Buck, HB 3068 by Representative Buck, and HB 3065 by Representative Buck were taken off notice. HB 3098 by Representative McCord, HB 2340 by Representative Bowers, HB 2788 by Representative Buttry, HB 2516 by Representative Briley, HB 2797 by Representative Briley, HB 2933 by Representative Briley, HB 2622 by Representative Odom, HB 2659 by Representative Winningham, HB 3125 by Representative Armstrong, HB 2595 by Representative West, HB 2598 by Representative West, HB 2599 by Representative West, HB 2600 by Representative West, HB 2610 by Representative West, and HB 2394 by Representative Kent were rolled for one week.

The following four bills were sent to the full committee:

- **HB 3184** by Representative Maddox requires the TBI, Board of Pharmacy, and Board of Medical Examiners to report on and make recommendations concerning the problem of the abuse of the prescription drug, Oxycontin. The report would be given to the house health and human resources committee and the senate general welfare, health and human resources committee.
- **HB 2513** by Representative Briley earmarks the first \$500 of the fine imposed for patronizing prostitution

or promoting prostitution to be transmitted to the sheriff's department of the county in which the offense was committed. This bill would apply to any county that has implemented a program to rehabilitate and treat people who are convicted of engaging in prostitution. Also, the clerk would be entitled to retain \$10 to defray administrative costs for collecting the fine and transmitting it to the sheriff.

- **HB 3029** by Representative Buck authorizes the attorney general to conduct investigations, with the assistance of TBI, into specific proceedings of the criminal justice system if there is credible evidence that improprieties have occurred.
- **HB 2331** by Representative Newton clarifies that certain business activities that comply with the Consumer Protection Act would not be considered unlawful business transactions for the purposes of the gambling law.

NOTE: The Criminal Practice & Procedure Subcommittee will hold its final scheduled meeting on Wednesday, March 27, 2002. A meeting will be held to consider homeland security legislation by Representative Kisher. Also, Representative Scroggs has requested a meeting to consider legislation that would permit evidence of a sex offender's prior convictions to be introduced in a subsequent case involving a minor victim.

Full Judiciary Committee



Rep. Sands, Judiciary Committee Secretary, and Rep. Briley discuss one of the 14 bills in full committee this week..

On Wednesday, the Judiciary Committee met to consider 14 bills. Representative Buck took HB 2573, HB 2574, and HB 2575 off notice. HB 2885 by Representative Ford was rolled for two weeks. HB 1876 by Representative Towns, HB 1884 by Representative Towns, HB 2652 by Representative Turner (Hamilton), HB 560 by Representative Boyer, HB 3020 by Representative Buck,

HB 2576 by Representative Buck, and HB 361 by Representative Buck were rolled for one week.

The following two bills were sent to **Calendar & Rules**:

- **HB 2913** by Representative Whitson, as amended, requires all persons or entities to keep and preserve suitable records for inspection by the Commissioner of Revenue, upon a reasonable request. A taxpayer, who fails to comply with the provisions of this legislation, would be assessed taxes plus any applicable penalty and interest. The taxpayer would have the burden of showing clear and cogent evidence that the assessment is incorrect.
- **HJR 682** by Representative Davis memorializes Congress to pass an amendment to the United States Constitution to allow voluntary school prayer.

HB 2128 by Representative McMillan was sent to **Finance, Ways, & Means**. Under HB 2128, the \$12.50 court cost collected by a county in a multi-county judicial district would be remitted to the executive director of the public defenders conference. In essence, this fee would be pooled and dispersed to benefit all counties within the judicial district to provide supplemental funding for the public defenders trying cases in all counties of the judicial district. Presently, the \$12.50 court cost is collected for a county to use in defraying the cost of providing representation and support services to indigent defendants in criminal proceedings.

State & Local Government

Lawrence Hall, Jr.

This week, the **State and Local Government** full committee passed **HB 2992**, by Rep. Head and **HB 2871**, by Rep. Kisher to Calendar Rules. HB 2992 places in the code the requirement that the minimum state contribution to the state employees' health insurance be 80% of the premium rather than 60%. The state currently pays 80%; this bill simply makes it law. HB 2871 increases the amount of a business investment that certain public officials are required to disclose from \$5,000 to \$10,000.

HB 2564, by Rep. Larry Turner of Shelby County passed to Calendar and Rules. This bill requires TACIR to monitor the implementation of the growth planning laws and to report back to the General Assembly its findings

along with any recommendations. **HB 3010**, by Rep. Arriola expands property tax exemptions to include properties financed under the "McKinney-Vento Homeless Assistance Act and HOME Investment Partnerships Program". This program provides housing and assistance for low-income elderly and/or handicapped persons. This bill further requires that the housing provided by nonprofits be permanent housing in order to receive tax relief.



Chairman Jones during a meeting of the committee.

HB 2853, by Rep. U. Jones of Shelby County, passed to Calendar and Rules. This bill allows alcoholic beverage retailers to store open or damaged products to return to wholesalers. This bill also allows retailers to serve samples of alcoholic beverages on the premises for the purpose of conducting sales demonstrations. **HB 3103**, by Rep. Kisber, will allow a candidate to provide in his or her will where the unexpended balance of their campaign contributions are to be allocated. This bill passed to Calendar and Rules.

Local Government Subcommittee heard **HB 2197**, by Rep. Bunch. This bill allows a county clerk to collect \$1.00 for agreeing to collect the wheel tax for a municipality. The \$1.00 deduction will be used for administration purposes. This bill passed to full committee. **HB 3050**, by Rep. Bowers passed to full committee. This bill will exempt from paying the state franchise and excise tax those entities that provide affordable housing through federal low-income housing programs.

State Government Subcommittee passed **HB 2623**, by Rep. Patton to full committee. This bill requires that a certificate of compliance be awarded by the Peace Officer Standards and Training Commission to university security officers who satisfy the qualifications for employment as a police officers.

Elections Subcommittee had one bill in committee, **HB 2503**, by Rep. Kernell. This bill moves an unpopulated

parcel of property in Shelby County from District 83 to District 93. This bill passed to full committee.

Transportation

Greg E. Adkins

The full **Transportation Committee** met on Wednesday, March 20, 2002 and considered ten bills. The following three sign bills passed to FW&M:

1. **HB 2535** by Rep. Fitzhugh--"Tina Turner Highway" Sign in Haywood County.
2. **HB 3078** by Rep. Fitzhugh--"Dr. M.B. Feemster Memorial Bridge" sign in Fayette County.
3. **SJR 520** by Rep. Shepard--"Kenneth N. 'Pete' Springer Highway" sign in Hickman County.

In other committee action:

HB 532 by Rep. Ridgeway was rolled one week; the amended bill enacts the "Passenger Contract Carrier Safety Act of 2001" which mandates safety measures for passenger contract carriers. These safety measures include physical health tests, drug testing, and limited hours an employee can drive.

HB 3041 by Rep. Beavers passed to FW&M as amended. The amended bill repeals the mandatory motorcycle helmet for individuals over the age of 21 and increases the fine for persons 21 years of age and under riding without a helmet.

HB 2916 by Rep. Newton passed to C&R as amended; the amended bill mandates that traffic rules will not apply to road workers on right-of-way adjacent to highways, but a driver of a motor vehicle or equipment is still responsible to drive with due regard for the safety of all persons.

HB 2360 by Rep. Curtiss passed to FW&M as amended. The amended version of the bill mandates that the state-aid highway funds cannot be cut further than the percentage of the gas tax collections.

HB 2539 by Rep. Ridgeway was rolled one week; the bill regulates "electric personal assistive mobility devices" commonly known as human transporters. These are self-balancing; two non-tandem wheeled devices that transport one person. All of the rules of the road would apply and local governments can impose regulations within those local jurisdictions.

HB 2644 by Rep. Bittle passed to FW&M; the bill would re-allocate 90% of the proceeds that come from the Sportsman new specialty earmarked license plate and 10% to the highway fund. This is different from the statutory required funding proportion.

HB 2917 by Rep. Ford passed to C&R as amended; the amended bill requires that the owner of a utility that is installing, relocating, or adjusting shall conduct and report monthly progress reports to TDOT.



Vice Chairman Fowlkes and Rep. White listen to discussion during the full committee meeting.

The **Public Transportation & Highways Subcommittee** met on Tuesday, March 19, 2002 and passed two bills.

HJR 683 by Rep. Bone passed to full committee; the bill creates the "Sgt. John Thomas Burton and Sp4 James Edward Bush" bridge sign. **HJR 723** by Rep. Pinion passed to full committee; the bill creates the "Lester Hailey Parkway" highway sign.

The **Transportation and Safety Planning Subcommittee** met on Wednesday, March 20, 2002 and considered twelve bills.

HB 2106 by Rep. Ferguson passed to full committee. The bill prohibits issuance of certificate to drive a school bus if that person has been convicted of a DUI, vehicular assault, vehicular homicide, or aggravate vehicular assault within five years of application for certificate. If the conviction is over five years old then it is discretionary for the board to approve the certificate.

HB 2693 by Rep. Head passed to full committee as amended; the amendment rewrites the bill to change the mobile home transportation permits from six-day permits to annual permits. The bill will allow mobile home transporters to deliver homes by designating certain routes; any violation of the provision of the bill will be fined. The fine progressively worsens with each violation and a loss of the driver's license if the permit is not followed.

HB 2816 by Rep. Whitson passed to full committee as amended. The amended bill will require campground operators that have motor vehicles carrying more than

fifteen passengers for hire traveling less than two miles to have \$1 million in liability insurance.

HB 2915 by Rep. Stanley passed as amended. The amended bill would allow TDOT to determine if there is a hazardous encroachment and be allowed to move it. The amendment also states that the owner of the encroachment would be liable for the damages that the encroachment creates.

HB 2834 by Rep. S. Jones passed to full committee. The bill would authorize the issuance of "Nashville Zoo at Grassmere" new specialty license plates.

HB 2061 by Rep. Kent passed to full committee as amended. The amended bill would authorize the issuance of emergency license plates to full-time police officers, and emergency services squad plates to EMT's and paramedics.

HB 2914 by Rep. Newton passed to the full committee. It authorizes the commissioner of TDOT to seek criminal background checks for intermediate level highway response operators and supervisors.

Budget Hearings

House Finance, Ways & Means Committee

Economic & Community Development - March 12th

Labor & Workforce Development • Tourist Development - March 12th

Treasurer's Report: - March 13th

(Revenue Report, Tobacco Settlement, Treasurer's Earnings, 401(k), BEST Program, T.C.R.S.)

Personnel • Financial Institutions • Revenue • General Services - March 14th

Department of Economic & Community Development

Tuesday, March 12, 2002

Ryan Swindell

At the conclusion of its calendar, the House Finance, Ways and Means Committee began budget hearings. Commissioner Tony Grande presented the budget request for 2002-03 for the Department of Economic and Community Development. The **total recommended budget** for the department for 2002-03 is **\$83 million**. Of the total recommended budget, **\$36.3 million are state funds** with federal grants and subsidies making up the rest.

Improvements for the department total \$20.4 million. The majority of the improvement request is to restore \$13.5 million to the Tennessee Industrial Infrastructure Program (TIIP's) which will increase the funding level to \$20 million. Other improvements for the department are listed below:

- Development District Grants - \$1.05 million – To provide funding to continue the grants for development districts.
- High Technology Initiative - \$5.4 million – To provide funding for in-state development and recruitment of advanced technology industries through the Tennessee Technology Development Corporation, the support of new technology councils, and the growth of the biotechnology industry.
- Black Enterprise Conference - \$400,000 – To provide funding for the third of three years of the Black Enterprise magazine conference.
- Appalachian Regional Commission - \$56,700 – To provide funding for increased membership dues of the Appalachian Regional Commission. These dues facilitate access to \$4.3 million of federal funds.

Discussion:

When asked what the no new revenue budget would mean to the department, Commissioner Grande stated that ECD would be abolished. Commissioner Grande went on to say that if that happened there would be an immediate effect on rural communities, and it would proclaim to prospective businesses that Tennessee is not an economic development state.



Commissioner Grande

Another issue raised was the importance of ECD coordinating with local chambers of commerce in helping businesses locate in their respective cities. If ECD was abolished it would be very difficult for those local government to communicate with businesses wanting to locate in their areas. Commissioner Grande stated that prospective businesses are asking how the budget will be resolved and what will be the impact on franchise and excise taxes. He added that it is very difficult for the Department to market the state in these difficult times.

Department of Labor & Workforce Development

Tuesday, March 12, 2002

Denise Sims

Labor and Workforce Development Commissioner Mike Magill made his department's budget presentation to the Finance Committee on Tuesday, March 12th.

The department's **total** budget request for '02-'03 is \$194,208,300, of which \$23,630,000 are state dollars. The total budget represents a decrease of \$169,300, or .08% compared with '01-'02. **Total state** dollars requested for '02-'03 are \$23,630,000, or about 0.7% below '01-'02. The department added that state dollars requested represent 0.2% of the state's total budget.

According to Commissioner Magill, the department's budget is less than the previous year:

	'02-'03 Request	'01-'02 Estimated
State	\$ 23,630,000	\$ 23,799,300
Federal	125,618,400	126,502,300
Other	<u>44,959,900</u>	<u>44,076,000</u>
	\$ 194,208,300	\$ 194,377,600

The '02-'03 budget presented to the committee showed no improvements and no new positions.

Under the umbrella of Labor and Workforce Development are Workers' Compensation, the Uninsured Employer Program, the Second Injury Fund, TOSHA and Labor Standards, Adult Education, Veteran's Employment, Mine Safety, Boiler and Elevator Inspections and a number of other state and federal programs. In responding to members' questions on what would happen to those programs if state funds were cut or were not available, Commissioner Magill said those actions would directly impact health and safety, and rehabilitation. He also said due to reductions last year, cuts in adult education cost the department \$1.2 million in federal dollars. Federal dollars represent 65% of the department's requested budget for '02-'03. Cuts in state dollars, according to the testimony, would impair their ability to draw down those federal dollars.

Department of Tourist Development

Tuesday, March 12, 2002

Greg Adkins

Commissioner John Wade addressed the House Finance Committee about the Department of Tourist Development's budget and answered questions from members.

Chairman Kisber asked what would happen to the Department if the DOG budget was passed. The Commissioner responded that it would put them out of business and there would no longer be a Department of Tourist Development.

It would cease its operation.

The overall budget cost of the Department is about \$12 million, but the Commissioner claims that for every dollar that is spent it brings \$13 back to the state. The Department's base budget for fiscal year 2002-03 was reduced by \$315,000 to reflect the loss of recurring funds for the "tourism regional matching grant program." An improvement request is included in the Governor's recommended budget to restore these grants. These grants are distributed to nine tourist development districts and are used to leverage other funds at other levels.

The 2001 budget reduction plan for the current fiscal year totals \$1 million. The plan includes a reduction in advertising production and media expenditures of \$527,000, the elimination of \$100,000 for two major Tennessee travel writer tours, a reduction of \$180,000 for local community tourism development projects, reduction of grants for staff travel (\$70,000), and the elimination of plans for a new "African-American Travel Guide (\$78,000).

February Revenue Report • Tobacco Settlement Funds
Treasurer's Earnings (Investments) • Deferred Compensation 401(k)
BEST Program • T.C.R.S.
Wednesday, March 13, 2002

Cathy Higgins

The Full Committee met to hearing presentations from Commissioner Warren Neel, Finance and Administration on February 2002 Revenue Report and State Treasurer Steve Adams on Funds Received Pursuant to the Tobacco Master Settlement Agreement, Treasurer's Earnings, 401(k) Deferred Compensation Match Program and the Retirement Program.

February 2002 Revenue Report

Commissioner Neel reported that February 2002 is the seventh month in the 2001-02 fiscal year on an accrual basis. Total revenue collections for the month were \$493.3 million - a decrease of \$6 million (-1.20%) over last year.

Sales tax collections for the month were \$340 million - an increase of 0.01% over the previous year. Year-to-date sales tax collections are \$3.7 million below collections over the same period, and compared with the budgeted estimate sales and use taxes are \$84 million below estimates.

Franchise and excise tax collections for the month were \$20.6 million below last year's collections (-61.64%). Collections were \$21.8 million below estimates. Year-to-date franchise and excise is \$99.5 million below what was collected over the same period, and compared with the budgeted estimate franchise and excise taxes are \$116.9 below estimates. April will be the decisive month regarding F&E taxes because that is the month in which the majority of the tax is due.

The General Fund for the month is \$24.2 million below the budgeted estimate, and the year-to-date is \$182.7 million below the budgeted estimate. The remaining funds (highway, sinking, city/county, and earmarked) are collectively \$5.8 million above the budgeted estimate, and year-to-date are \$3.2 million above budgeted estimate.

Commissioner Neel stated that based on February's revenue report he was not ready to change the shortfall projection for fiscal year 01-02 which is approximately \$350 to \$355 million. However, if revenues continue to go down, the shortfall projection may need to be changed.

Tobacco Settlement Agreement

Mr. Adams recapped that tobacco dollars received last year under the Master Settlement Agreement (MSA) were incorporated into the funding source for the budget.

1999-00 and 2000-02: Payments less than expected

As background to the tobacco settlement, the State was provided with information as to what it could expect to receive for the coming fiscal years based on the MSA. Receipts for FY 1999-00 show that actual payments (\$199.7 million) received represented approximately 93% of what was estimated (\$215.1 million). This trend held pretty steady for FY 2000-01 when the State received 91% of what was estimated (\$153 million received; estimated \$169 million). The reasons for the less than expected receipts is based on volume adjustments (decrease in domestic sales) and an adjustment for increased sales from non-participating manufacturers.

January 2002: Payment less than expected

Based on recent information and the January 2002 payment for Fiscal Year 2001-02, the State now expects to receive approximately 74% of what was estimated. The January 2002 payment was 74% of what was expected (\$64 million estimated, \$47.5 million received). The reason for the decrease in receipts is based on the two factors mentioned above, plus a dispute from Brown and Williamson on their payment. According to the Attorney General's office, "Brown and Williamson did not make a payment of \$4.7 million due to a dispute. Unless there is a settlement, resolution of the dispute will be a protracted process. Future payments by Brown and Williamson should be treated as unlikely during the next year." The Attorney General's office indicates that the major adjustment to the January 2002 payment is from volume adjustments permitted under the MSA.

April 2002: Trend is expected to continue

The next payment from the MSA is due in April and the State expects the trend set by the January 2002 payment to continue. It is likely that the State is going to be approximately \$38 million short of what was budgeted. The State will know exactly what this amount is on April 15, and will have a better estimate on March 31. The worst case scenario is that the State will be short \$38 million; the best case scenario is that it will be \$13 million short for the current year. Since the budget for the current year has these dollars included, like any other revenue to the extent the money is not received, it will require a reduction in expenditures and/or additional revenue to put in balance. The low end of the \$13 million estimate takes into account Brown and Williamson will not have a dispute and the payment is only adjusted by volume and non-participating manufacturers. However, since Brown and Williamson disputed the last payment it is likely they will dispute the second payment.

The budget for FY 2002-03 includes approximately \$170 million in tobacco settlement dollars: \$160 million recurring and \$10 million nonrecurring. Based on recent experience, that amount might be overstated by \$18 million.

In summary, based on the information from Commissioner Neel, the projected shortfall for the current year is around \$355 million. When the tobacco settlement shortfall is factored in it that may be as high as \$390 million. Mr. Adams stated one caveat, *these numbers will change*, and the idea of the presentation is to give members a range on how much the State may or may not receive from the MSA.

Treasurer's Earnings

Treasurer earnings are short-term investments; the average maturity is under 90 days and investments include government securities and collateralized CDs, which are the safest investments. Two things impact treasurer earnings: rate of return and balances.

As the Feds have lowered rates, it has affected the rate of return on earnings. The current year estimate is \$43.5 million. This is down from the previous year of \$58 million. Projected revenue was revised downward in January 2002 to \$36.5 million, and it is suggested it be revised downward again by \$4 million to \$32.5 million.

For the next fiscal year the budget programmed a decrease in earnings to \$24 million and it is suggested that this amount be further reduced to \$12.5 million. The reasoning is that rates continue to be reduced, and the assumption is that additional revenue will not be generated which will result in reduced balances. This suggests that balances will fall from around \$900 million to \$500 million. If interest rates go back up, that will have a positive effect on earnings. There is discussion that the Feds may raise rates and this will help, however, balances are the major contributing factor when rates are this low.

To summarize, so far taking into account the less than expected tobacco settlement dollars and treasurer's earnings, the shortfall for the current year is \$52 million and for next year \$11.5 million. This is in addition to the revenue shortfall reported by Commissioner Neel.

Deferred Compensation 401(k)

The State has been matching up to \$20 per month for state employees since 1996 with flexible benefit plan savings. The State saves approximately \$3.2 million on Social Security contributions in as much as people participate in the flexible benefit plan. In 1995, the State decided the savings should be used to the benefit of state employees in the form of a deferred compensation match. However, the savings no longer cover the State's cost of the match. In order to continue the deferred compensation match for the next year there will need to be an additional appropriation of \$5 million that has not been included in the Governor's recommended budget. Otherwise there will be an actual reduction for those who participate in deferred compensation. The impact of the match has acted as a significant incentive for employees to build supplemental retirement savings on their own. Participation among state employees has grown from 17% prior to the match in 1994 to 64% in 2001. Approximately 57% of participants earn less than \$30,000 per year, while 79% of participants earn less than \$40,000 per year.

Tennessee Baccalaureate Education System Trust (BEST)

The BEST program is a prepaid college savings program offered to the citizens of Tennessee. As a result of the State's recent tuition policy, there are foreseeable problems that Mr. Adams wanted to bring to the attention of members. The BEST program began in 1997, to assist students or their families in financing a portion of the cost of attending college through the use of tuition contracts. There is no restriction on the use of the proceeds. All earnings of the program are tax-exempt even when the beneficiary uses the earnings. It is the last tax-deferred program there is and as much as \$235,000 can be put in to this program for college tuition.

When the program was being developed the tuition and inflation history was studied to determine the viability of developing such a program. These two factors averaged around 4.5% to 5% per year. The State's record on earning on investments - mainly the pension plan - exceeded that growth percentage. In developing the program, earning assumptions were 7.5% and tuition inflation was 6%. However, recent tuition policy and economic slowdown has negatively affected the actuarial soundness of the program.

An actuarial valuation of the BEST program was conducted as of September 30, 2001. The valuation calculates payments into the future and compares that amount to the present value of the assets. Present value of the assets of the program is \$29 million and present value of future payments is \$32 million, therefore the program has a deficit of \$3.7 million.

The concern Mr. Adams expressed is not so much the investment loss. The assumption for investment earnings is 7.5% and that is the same as the pension plan. That is viewed, according to Mr. Adams, as a very conservative assumption for a long-term fund. What is of major concern is tuition inflation. The assumption is 6% and last year it went up on average 13.9%. Tuition itself went up 15%. Those kinds of increases cannot be earned year after year.

The State does not have an immediate problem. A cash flow analysis has been done and the State will not have a cash flow problem until the year 2016. The concern is the unintended change in policy as it relates to tuition growth. Increasing participants in the program would be good, however, only if growth in tuition is slowed. If the policy for

tuition remains as it is, it may be necessary to limit future participation in the program and future contributions to the program.

Members agreed that when the program was developed no one dreamed that tuition increases would be in the double-digits. Mr. Adams pointed out to the members that as tuition has increased over the years, student fees have declined. Student fees are used to pay for programs, buildings, etc., that benefit the students, and the students directly pay. In many instances, students vote to institute such fees. An example is a technology fee to wire dorms for computer access. Last year, the average increase in student fees was 5.39% compared to the average increase in tuition, which was 13.9%. It was noted that the funding formula for higher education does not recognize fees - it just recognizes tuition. The BEST program pays for tuition and mandatory fees.

It was pointed out during discussion that when the tuition assumption of 6% was made, tuition growth over the 20 years studied had never reached 6%. Participants have benefited from this program because they have sheltered themselves from these tuition increases.

Tennessee Consolidated Retirement System, Actuarial Valuation, July 1, 2001

Mr. Adams explained what an actuarial valuation means to the members of the committee. Every two years there is an actuarial valuation of the retirement system; every four years there is an experience study.

An actuarial valuation is a study to determine what the funding status is and the amount that needs to be contributed for the ensuing years until the next actuarial valuation in order for the pension plan to remain actuarial sound. "Actuarial sound" means contributions are being made at the level required, generational equity is being provided in distributing the cost of the pension plan, as well as what the funding status for the program is at that particular point in time. An actuarial study assures retirees that the State will be able to pay benefits when they are due.

An experience study measures how well the assumptions are doing based on actual experience to compute actual liability. Assumptions are made for things such as what age people will retire, how long people will live once they retire, how much their salary will be when they retire, etc. An experience study matches how close these assumptions are to actual experience. The study shows that life expectancy is growing and that people are retiring earlier than assumed, and these things have an effect on the cost of the retirement program.

The experience study shows the number of active membership is growing, salaries are increasing, and the numbers of retired members are increasing. Membership in the retirement system includes K-12 teachers, state (includes state employees and higher education), local political subdivisions, and others. In 2001, almost \$800 million was paid out in benefits. Participants by age in the program are also older, showing that in a few years there will be a shortage of teachers and state employees -- the State is on the verge of a lot of people being eligible to retire in the next few years.

The present value of future benefits is at \$28 billion, and the plan has a fund balance of \$24 billion. Therefore the plan is in good financial shape. However, when over \$800 million is paid out annually it would not take long for the balance to decline if funding is not maintained. As a note, Mr. Adams stated that the plan does not have any debt. Also the pension plan does not belong to the State, the State has a fiduciary responsibility on behalf of state employees to manage the plan, and the plan belongs to current and future retirees.

Recommendations from the experience study show that assumptions need to be changed regarding salary scale, age, termination and retirement rates, and mortality rates. The Board of Trustees has adopted the recommendations, however, it is recommended that the assumptions be phased in because the State cannot afford to fund all the changes recommended. The phase-in assumption is an additional cost of \$13 million - net cost to the State will be \$11 million.

Mr. Adams noted that according to Governmental Accounting Standards Board Statement 26, the State is required to book the liability for the contribution even though it may not have been made. In other words, a payable has to be placed in the books. Even though the contribution is not made, it does not save the State anything because the liability must still be

placed in the books. Because of the budget balance requirement in the State's Constitution, it does not benefit the State to not make the contribution.

Department of Personnel

Thursday, March 14, 2002

Lawrence Hall, Jr.

On March 14, Commissioner Walter Butler of the Department of Personnel presented the department's budget for Fiscal Year 2002-2003 to the House Finance, Ways, and Means Committee. The department's base budget recommendation was presented to be \$8,887,300 (\$4,452,500 State funding and \$4,434,800 "Other funding"). The commissioner also stated that the department's base position recommendation is 114 full-time employees and 9 part-time employees (Civil Service Commissioners). Department improvements include a department wide computer replacement, and replacement of the HP Optical Jukebox system, totaling \$112,400 (\$82,400 State funding and \$30,000 "Other funding"). These figures represent a total recommended budget of \$8,999,700 (\$4,534,900 State funding and \$4,464,800 "Other funding").

The department wide computer replacement will include all computers and printers that are currently being used by the department. There are 157 computers and 22 printers that need to be replaced. According to Commissioner Butler, by the end of this fiscal year the department's computer system will be close to five years old and in need of replacement. The cost for this improvement is \$79,000 (\$49,400 State funding and \$30,000 "Other funding").

The HP Optical Jukebox is a storage device that stores images of employment applications, separate employee files, and Position Control Questionnaires. The commissioner says that the on-line capacity of the system will be exceeded by Fiscal Year 2002-2003. This budget recommendation will replace the lost capacity and improve the capacity more than seven times. The cost for this improvement is \$33,000 (State funding).

The commissioner was asked about the effect on the department in light of a 5 to 10% reduction in the department's budget. The commissioner stated that this type of reduction would have a drastic effect on the department which would result in the elimination of 12 to 15 full-time jobs, which would slow down the preparing and processing of employment applications, and which ultimately would encourage applicants to seek other employment opportunities.

Department of Financial Institutions

Thursday, March 14, 2002

Cathy Higgins

Mr. Pat Linn, Assistant Commissioner for Financial Institutions presented the department's budget for FY 02-03. The Department has requested no new dollars or improvements for the coming fiscal year. The Department's request for FY 02-03 is \$8,755,300 and is the same as FY 01-02.

The presentation began by addressing what the impact would be if the Department's budget was reduced as a result of a "no new revenue budget." Mr. Linn explained that the Department's budget is totally self-funded from revenues it receives from the financial institutions regulated by the department. Since 1994, the department has reduced its total positions 10%, from 124 to 112. This was accomplished while taking on two additional industries to regulate - Check

Cashers and Deferred Presentment Companies. In addition to these two industries, the department regulates state-chartered banks and credits unions, trust companies, business industrial development corporations, industrial loan and thrift offices, insurance premium finance officers, mortgage/mortgage broker offices, and money transmitters. Mr. Linn stated that any further reduction would affect the Department's ability to fulfill its obligations and possibly place the department's accreditation with the Conference of State Bank Supervisors and the National Association of State Credit Union Supervisors in jeopardy.

Department of Revenue

Thursday, March 14, 2002

Cathy Higgins

Commissioner Ruth Johnson presented the Department's budget for Fiscal Year 2002-03. The Department's total budget request for FY 02-03 is \$63.3 million, including an improvement request of \$2.7 million. The Department's estimated budget for FY 01-02 is \$61.7 million.

The "no new revenue budget" would dramatically affect the ability of the Department to perform its function to collect revenue for the State. Commissioner Johnson noted that the main expenditure for the department is personnel salary and benefits. Personnel costs represent over 64% of the Department's total expenditures. There are no boards or commissions to cut and any reduction in funding would have to come from a reduction in personnel.

The Department has requested improvements totaling \$2.7 million in the area of tax processing and audit/compliance. A total of 57 positions are being requested - 26 in tax processing and 31 in audit/compliance. The additional positions in audit/compliance would increase delinquent tax collections by \$6.3 million and produce audit assessments of \$6.5 million.

Department of General Services

Thursday, March 14, 2002

Lawrence Hall, Jr.

The Department of General Services presented its proposed Fiscal Year 2002-2003 budget to the House Finance, Ways, and Means Committee. The department was represented by Commissioner Edward Jones who described the mission of the Department of General Services as one that is "to provide central support services to all agencies and departments in State government." The programs that the department provides are as follows:

- Administrative Services
- Postal Services
- Property Utilization
- Motor Vehicle Management
- Property Management
- Printing
- Purchasing
- Systems Management
- Records Management
- Central Stores (Warehousing and Office Supplies)

-Comprehensive Food Services (Cook/Chill)

The department's base budget request for Fiscal Year 2002-2003 is \$88,481,700.

-Administrative Services	\$ 4,124,400
-Postal Services	\$ 14,863,900
-Property Utilization	\$ 1,683,100
-Motor Vehicle Management	\$ 34,631,700
-Property Management	\$ 12,051,800
-Printing	\$ 4,706,500
-Purchasing	\$ 4,069,900
-Systems Management	\$ 2,002,700
-Records Management	\$ 1,283,700
-Central Stores (Warehouse/Supplies)	\$ 4,284,800
-Cook Chill	<u>\$ 4,779,200</u>
Total	\$ 88,481,700

The department made one improvement request of \$200,000 for printing. The department has experienced a decrease in sales because other departments and agencies have, in some cases, eliminated the use of printing services. The department has also cut expenses, left positions vacant, and deferred equipment replacements. These factors resulted in the department using reserves to balance the department's budget.

###

For Additional Information,
Contact the House Research Division at 741--3025.